

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 14,814

)

Appeal of )

)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying her request to remove one of her children from her ANFC grant. The issue is whether the Department may consider the child support that the petitioner receives for that one child in computing the level of benefits to the petitioner's ANFC household.

FINDINGS OF FACT

This is another so-called DEFRA case, in which the Department, pursuant to federal statute, mandates the inclusion in an ANFC "assistance group" of the siblings and parents of all eligible children. In the petitioner's case, she resides with three children. One of the children has a different father than the other two. That child receives child support payments from its father. The petitioner receives no child support from the father of the other two children.

The Department has determined that all three children must be included in the petitioner's ANFC assistance group and that the child support income for the one child must be considered as available to the entire household. As a result of this additional income being "deemed" available to the entire household, the household receives less income than it would if the petitioner could remove the child for whom she receives child support from the ANFC grant and continue to receive ANFC for just herself and the other two children.

The petitioner takes no issue with the facts and figures relied upon by the Department in its determination. Although she disagrees with the effect and rationale of the regulations in question, she could not dispute that the Department was applying those regulations correctly to her situation.

ORDER

The Department's decision is affirmed.

REASONS

The board has affirmed dozens of cases over the years involving the provisions in the regulations,

adopted pursuant to the 1984 DEFRA amendments to the federal ANFC statutes, mandating the inclusion in an ANFC household of all siblings, and parents of those siblings, who reside with ANFC-eligible children, and "deeming" the income of those siblings as "available" to the entire ANFC household. See Fair Hearing's No. 6648 et al. and W.A.M. § 2242. This case illustrates a major argument that has been raised repeatedly regarding these provisions. The child support to one of the children is effectively offset by reducing the ANFC benefits to the other family members, and the father of that child sees his support payments diluted to provide care to two children who are not his own.

Nonetheless, it is clear in this matter that the Department has correctly followed what the United States Supreme Court has upheld as a valid procedure for determining the ANFC eligibility of individuals in the petitioner's circumstances. <sup>(1)</sup> Therefore, the board has no choice but to affirm the Department's decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

# # #

1. See Bowen v. Guillard, 55 U.S.L.W. 5079 (1998).